

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

FLAME S.A.,

Plaintiff,

GLORY WEALTH SHIPPING PTE LTD.,

Consolidated Plaintiff,

v.

INDUSTRIAL CARRIERS, INC.,  
VISTA SHIPPING, INC., and  
FREIGHT BULK PTE. LTD., and  
VIKTOR BARANSKIY,

Defendants.

Civil Action Nos.

2:13-cv-00658-RGD-LRL

2:13-cv-00704-RGD-LRL

**PLAINTIFF FLAME S.A.'S BRIEF IN OPPOSITION  
TO CHALOS & CO.'S MOTION TO QUASH OR LIMIT SUBPOENA**

Plaintiff FLAME S.A. ("Flame"), by counsel, opposes Chalos & Co., P.C.'s "letter motion" seeking to quash or modify the subpoena served on it June 6, 2014, and asks the Court to deny the motion and order Chalos & Co. to immediately produce the requested documents.

**BACKGROUND**

On June 6, 2014, counsel for Flame delivered a copy of a subpoena to non-party Chalos & Co., P.C. *See* Exhibit A. Mr. George Chalos acknowledged his acceptance of service that same day. *See* Exhibit B (e-mail confirming receipt of the subpoena). The deadline to produce the requested documents was June 16, 2014. But based on Mr. Chalos' representations that he would be abroad until June 14, 2014, Flame did not object to Chalos & Co.'s request for several days' additional time to review and respond to the subpoena. *See id.*

Rather than produce the requested documents, Chalos & Co. faxed a “letter motion” to this Court on June 19, 2014, asking it, “in an abundance of caution,” to quash or modify the subpoena to the extent any of the requested information and documents may fall under the attorney-client privilege.<sup>1</sup> But as the case law cited in the motion explains, none of the requested information falls under the attorney-client privilege. The subpoenas do not seek confidential information regarding any legal advice that Chalos & Co. may have given ICI. Indeed, the subpoena specifically calls for Chalos & Co. to redact privileged materials.

### **ARGUMENT**

Chalos & Co.’s own submission fully acknowledges that client identity and fee-arrangement information is not ordinarily privileged, and the cases it cites fully confirm this position. *See* Letter Motion at 2. In *Chaudry v. Gallerizzo*, the lone Fourth Circuit case cited by Chalos & Co, the court explained how, “[t]ypically, the attorney-client privilege does not extend to billing records and expense reports.” 174 F.3d 394, 402 (citing *In re Grand Jury Proceedings*, 33 F.3d 342, 353 (4th Cir. 1994)). Even if parts of a billing record are privileged, the only portions protected from disclosure are statements which may reveal something about the legal advice sought or given:

The identity of the client, the amount of the fee, the identification of payment by case file name, and the general purpose of the work performed are usually not protected from disclosure by the attorney-client privilege. However, correspondence, bills, ledgers, statements, and time records which also reveal the motive of the client in seeking representation, litigation strategy, or the specific nature of the services provided, such as researching particular areas of law, fall within the privilege.

*Id.* (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th Cir. 1992)).

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<sup>1</sup> Chalos & Co. consented to this Court’s jurisdiction by filing the letter motion in this District instead of New York, where compliance otherwise would be required under Rule 45 since the firm is located in Oyster Bay, New York. *See* Rule 45(f) (permitting a motion to quash to be heard by the issuing court “if the person subject to the subpoena consents”).

Flame's subpoena was entirely mindful of the privilege considerations applicable in this context, and its subpoena was narrowly tailored to avoid requesting any documents or records that may be subject to the attorney-client privilege. Specifically, the subpoena requests the following four categories of records:

1. Documents identifying the name(s) of the party(ies) who retained you to represent Industrial Carriers, Inc. at any time during the period of January 1, 2008 through the present, including, but not limited to docket 1:10-cv-9557-LAK.
2. Documents identifying the name(s) of the party(ies) who paid you to represent Industrial Carriers, Inc. at any time during the period of January 1, 2008 through the present, including, but not limited to docket 1:10-cv-9557-LAK.
3. All billing records, subject to redaction for privilege, you issued with respect to your representation of industrial carriers Inc. at any time during the period of January 1, 2008 through the present, including, but not limited to docket 1:10-cv-9557-LAK.
4. Documents sufficient to show the bank name, date, time, originating account number, and pay your name for all payments sent to you for your services in the representation of Industrial Carriers, Inc. at any time during the period of January 1, 2008 through the present, including, but not limited to docket 1:10-cv-9557-LAK.

The only one of these requests that could possibly call for the production of privileged information is request 3, and Flame specifically acknowledged in its subpoena that invoices may be redacted to the extent any privilege is implicated. The motion should therefore be denied.

### **CONCLUSION**

In view of the foregoing, there is no basis to quash or limit the subpoena, and Chalos & Co. should be directed to comply with it forthwith, and this Court should grant Flame such other and further relief as it deems just and equitable.

This 24th day of June, 2014.

**FLAME S.A.**

/s/ Steven M. Stancliff

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of June, 2014, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such electronic filing to the following counsel of record:

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